

REMARKS

The Applicant would like to thank the Examiner for the indication of claims 15 – 24 as allowable.

Claims 13 and 14 stand rejected under 35 U.S.C. 102(b) based upon an alleged public use or sale of the invention. In particular, the Examiner notes that “the article ‘Developing and Assembling the Law School Admission Test’ states that LSAC has used a Monte Carlo approach to the assembly of test forms for the LSAT since 2002.” Office Action, paragraph 1.

Enclosed herewith is a Declaration by Lily Knezevich Under 37 C.F.R. 1.132 (“Knezevich Declaration”), which is incorporated herein by reference in its entirety. As established by the Knezevich Declaration, the test assembler referred to in Developing and Assembling the Law School Admission Test was not even capable of assembling a test that could be taken by students more than one year before the filing date of the present application, at least because an interface with LSAC’s ITEMS architecture needed to be built. Furthermore, as the Knezevich Declaration establishes, the first LSAT to be taken by students that was created using the test assembler referred to in Developing and Assembling the Law School Admission Test was still under evaluation as of September of 2003.

Thus, in view of the evidence provided in the Knezevich Declaration submitted herewith, along with the Declaration of Applicant submitted on June 16, 2009, there was no public use or sale of the invention more than one year before the filing date of the present application, thereby rendering claims 13 and 14 patentable.

Conclusion

In view of the foregoing, Applicant respectfully requests the timely allowance of all of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this Response, the Examiner is invited to contact Applicant's undersigned representative to expedite prosecution.

Respectfully submitted,

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